

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2698 Session of
1994

INTRODUCED BY COY, GEORGE, DeWEESE, STURLA, STETLER, MASLAND,
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DERMODY, ROONEY, MELIO, RUDY, VANCE AND RUBLEY,
APRIL 13, 1994

AS AMENDED ON THIRD CONSIDERATION, HOUSE OF REPRESENTATIVES,
OCTOBER 5, 1994

AN ACT

1 Creating a Pennsylvania rivers conservation program to conserve
2 and enhance the river resources of this Commonwealth through
3 development and implementation of river conservation plans;
4 establishing the Pennsylvania Rivers Conservation Registry to
5 recognize local river conservation activities; establishing a
6 Rivers Conservation Board; providing technical and financial
7 assistance to municipalities and river support groups for
8 river conservation planning and implementation activities.

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12 The General Assembly of the Commonwealth of Pennsylvania
13 hereby enacts as follows:

14 Section 1. Short title.

15 This act shall be known and may be cited as the Pennsylvania
16 Rivers Conservation Act.

17 Section 2. Findings and purpose.

18 (a) Findings.--The General Assembly finds and declares as
19 follows:

20 (1) Pennsylvania's rivers have significant values that
21 contribute greatly to the quality of life for the citizens of
22 this Commonwealth. These values include recreation; tourism;
23 sources of drinking water; plant, wildlife and aquatic
24 habitat; historic, geologic, scientific and cultural
25 significance; economic and industrial use; agricultural use;
26 transportation; and aesthetic and scenic value.

27 (2) Rivers are a significant part of many municipalities
28 in this Commonwealth and many individuals and community
29 groups are interested in conserving river resources and
30 values. The conservation of the river resources of this

1 Commonwealth by municipalities and river support groups is
2 desirable, particularly when undertaken on a watershed
3 approach, and it is in the Commonwealth's interest to promote
4 and support these conservation activities.

5 (3) Public interest in river conservation continues to
6 grow and the Department of Environmental Resources is unable
7 to address the increasing number of requests for rivers
8 conservation assistance and support through the existing
9 authorities found in the act of December 5, 1972 (P.L.1277,
10 No.283), known as the Pennsylvania Scenic Rivers Act.

11 (b) Purpose.--The purposes of this act are to:

12 (1) Conserve, enhance and restore the river resources of
13 this Commonwealth through the development and implementation
14 of locally initiated river conservation plans.

15 (2) Provide technical and financial assistance for local
16 river conservation planning and activities. THIS ASSISTANCE <—
17 MAY ADDRESS THE CONSERVATION OF NATURAL RESOURCES,
18 RECREATION, FLOODING AND OTHER ACTIVITIES ASSOCIATED WITH
19 RIVER PROTECTION AND CONSERVATION.

20 (3) Establish the Pennsylvania Rivers Conservation
21 Registry to recognize local efforts for river conservation
22 planning activities and to encourage State agencies to take
23 actions consistent with local river conservation plans.

24 Section 3. Definitions.

25 The following words and phrases when used in this act shall
26 have the meanings given to them in this section unless the
27 context clearly indicates otherwise:

28 "Board." The Rivers Conservation Board established under
29 section 5.

30 "County." Any county of this Commonwealth through which a

1 river runs or of which a river creates all or a part of the
2 boundary.

3 "Department." The Department of Environmental Resources of
4 the Commonwealth.

5 "Municipal authority." A body politic and corporate, created
6 pursuant to the act of May 2, 1945 (P.L.382, No.164), known as
7 the Municipality Authorities Act of 1945.

8 "Municipality." Any city, borough, incorporated town,
9 township or home rule municipality through which the river flows
10 or all or part of the boundaries which the river creates.

11 "Registry." The Pennsylvania Rivers Conservation Registry.

12 "River." A flowing body of water or estuary or a section,
13 portion or tributary thereof, including rivers, streams, creeks
14 and runs.

15 "River conservation implementation grants." Grants
16 established to be used for the implementation of river
17 conservation plans.

18 "River conservation plan." A strategy for maintaining or
19 enhancing river resources and values through formulation of a
20 detailed program of action for a specific river.

21 "River conservation planning grants." Grants established to
22 be used for the development of river conservation plans.

23 "River support groups." Not-for-profit organizations that
24 have been designated by one or more municipalities or counties
25 to act on their behalf to apply for river conservation planning
26 grants or river conservation implementation grants.

27 Section 4. Powers and duties of department.

28 The Department of Environmental Resources shall have the
29 power and its duty shall be to:

30 (1) Establish procedures for river conservation planning

1 grants to provide funding for local river conservation
2 planning efforts.

3 (2) Establish the Pennsylvania Rivers Conservation
4 Registry to recognize local efforts to protect rivers.

5 (3) Establish procedures for river conservation
6 implementation grants to carry out projects and/or activities
7 for rivers listed in the Pennsylvania Rivers Conservation
8 Registry.

9 (4) Establish a rivers' conservation technical
10 assistance program to assist municipalities and river support
11 groups in river conservation planning and implementation
12 activities.

13 (5) Upon the recommendation of the Rivers Conservation
14 Board, to provide up to 50% financial assistance to
15 municipalities and river support groups for the specific
16 purposes of developing river conservation plans and for the
17 implementation of recommendations contained in the plans.

18 (6) Perform these duties consistent with the provisions
19 of this act which the department deems necessary or proper
20 for effective implementation of this act.

21 Section 5. Rivers Conservation Board.

22 (a) Establishment.--There is created a Rivers Conservation
23 Board, which shall consist of five persons, including the
24 Secretary of Environmental Resources and one person appointed by
25 each of the following: the President pro tempore of the Senate,
26 the Minority Leader of the Senate, the Speaker of the House of
27 Representatives and the Minority Leader of the House of
28 Representatives. Persons appointed to the board shall serve
29 without compensation and at the pleasure of their respective
30 appointing officers.

1 (b) Organization.--The Secretary of Environmental Resources
2 shall call the initial meeting of the board and shall serve as
3 its initial chairperson for one year or until a successor is
4 chosen by the board, whichever occurs later. In successive
5 years, the board shall elect a chair from amongst its members
6 for one-year terms, or to fill any vacancy in the chair that may
7 occur. Three members shall constitute a quorum for purposes of
8 conducting meetings of the board.

9 (c) Powers.--The board shall have the power and its duty
10 shall be to meet at least quarterly and review all grant
11 applications received by the Department of Environmental
12 Resources under sections 7 and 9 and to recommend funding for
13 those applications determined by the board to satisfy the
14 criteria set forth in this act, after due consideration of the
15 department's assessment of whether applications are worthy of a
16 recommendation. Three members voting in the affirmative shall be
17 required for the board to recommend funding of any approved
18 applications.

19 Section 6. River conservation plans.

20 (a) Purpose of river conservation planning.--The purpose of
21 river conservation planning is to:

22 (1) Identify significant environmental, recreational,
23 economic, cultural and aesthetic resources and values of a
24 river.

25 (2) Identify the potential threats to these significant
26 river resources and values. THESE THREATS CAN INCLUDE, BUT <—
27 ARE NOT LIMITED TO, FLOODING, DEGRADATION OF WATER QUALITY,
28 LOSS OF RECREATIONAL OPPORTUNITIES OR DEGRADATION OF A
29 SIGNIFICANT ECONOMIC, CULTURAL OR AESTHETIC RESOURCE OR
30 VALUE.

1 (3) Recommend policies and actions that can be
2 undertaken in the watershed to conserve, restore and/or
3 enhance these river resources and values.

4 (4) Provide the necessary information for inclusion on
5 the Pennsylvania Rivers Conservation Registry.

6 (b) Contents of river conservation plan.--A river
7 conservation plan shall include sufficient information to
8 adequately evaluate the river's resources and values and, at a
9 minimum, shall include:

10 (1) Seven and one-half minute United States Geological
11 Survey topographic maps defining the area addressed by the
12 plan.

13 (2) Zoning and public land-use patterns within the area
14 addressed by the plan.

15 (3) An inventory of natural and cultural resources,
16 including, but not limited to, topography, geology, soils,
17 flora, fauna, historic, cultural, recreation-open space,
18 greenways, fisheries and water quality.

19 (4) An analysis of the inventory of natural and cultural
20 resources, including a characterization of significant or
21 unique natural and cultural resources.

22 (5) Identification of the issues, concerns,
23 opportunities and potential threats to the river's natural
24 and cultural resources.

25 (6) Recommendations to address the issues, concerns,
26 opportunities and threats to the river's resources, <—
27 ~~including, but not limited to, flooding.~~

28 (7) Other criteria deemed appropriate by the Department
29 of Environmental Resources.

30 Section 7. River conservation planning grants.

1 (a) General rule.--Except as provided in subsection (c),
2 upon the recommendation of the Rivers Conservation Board, the
3 Department of Environmental Resources shall award grants to
4 municipalities, municipal authorities, counties or designated
5 river support groups for the purpose of preparing river
6 conservation plans.

7 (b) River conservation planning grant application.--
8 Municipalities, municipal authorities, counties and river
9 support groups may make grant applications to the department.
10 The department shall forward such applications to the board,
11 accompanied by its assessment of whether the grant application
12 satisfies the criteria set forth in this act and any procedures
13 adopted hereunder by the department. Priority for funding shall
14 be given to river conservation planning grant applications that:

15 (1) Identify and document existing conditions, ~~floodings~~ <—
16 or activities that have a detrimental effect on the quality
17 of the river.

18 (2) Demonstrate the need to conserve, restore or enhance
19 the present quality of a river through the development of a
20 rivers conservation plan to guide river conservation
21 initiatives, with greater weight afforded those applications
22 which propose a comprehensive watershed approach.

23 (3) Identify the expected environmental and economic
24 benefits to be gained from implementation of the planning
25 grant.

26 (4) Involve two or more municipalities to jointly
27 address the need to conserve, restore or enhance a river.

28 (5) Are supported by a resolution for the planning grant
29 by at least one municipality included in the proposed study
30 area, with greater weight afforded those applications

1 accompanied by resolutions from the greatest percentage of
2 affected municipalities.

3 (6) Are supported by a resolution, petition or other
4 evidence for the planning grant by river support groups,
5 other organizations, businesses or the general public,
6 including individuals within the proposed study area.

7 (7) Include a public notice in a locally circulated
8 newspaper or other newspapers of general circulation in the
9 proposed study area regarding the intent of the applicant to
10 submit a river conservation planning grant application to the
11 department for funding.

12 (8) Address other criteria deemed appropriate by the
13 department.

14 (c) Limitation on awarding of grants.--No grant shall be
15 awarded to the following:

16 (1) A municipal authority, unless the application for
17 same is accompanied by a supporting resolution adopted by the
18 municipality which created the authority, or in the case of
19 intermunicipal authorities, a supporting resolution adopted
20 by at least one of the municipalities creating the authority.

21 (2) A county, unless the application for same is
22 accompanied by a supporting resolution adopted by at least
23 one municipality in the county.

24 (3) A river support group, unless the application for
25 same is accompanied by a resolution of a municipality
26 designating the group to make such application on its behalf.

27 Section 8. Pennsylvania Rivers Conservation Registry.

28 (a) Registry purpose.--The Pennsylvania Rivers Conservation
29 Registry is a list of the rivers that have met the requirements
30 of subsection (b). The registry shall promote the conservation

1 of rivers and river values, officially recognize community plans
2 for conserving rivers and river values and facilitate consistent
3 State action with local river conservation plans.

4 (b) Eligibility.--To be eligible for inclusion on the
5 registry:

6 (1) The Department of Environmental Resources must
7 determine that a river conservation plan meeting the
8 requirements defined in section 7(2) has been developed for
9 the river.

10 (2) A municipality or river support group must
11 demonstrate to the department that at least one public
12 hearing was held within the planning area offering interested
13 individuals or organizations the opportunity to review and
14 comment on the plan.

15 (3) A municipality or river support group must provide
16 evidence to the department of a resolution supporting the
17 river conservation plan and registry designation from at
18 least one of the affected municipalities.

19 (4) A municipality or river support group may be
20 required to provide other documentation or material deemed
21 appropriate by the department.

22 Section 9. River conservation implementation grants.

23 (a) General rule.--Upon the recommendation of the Rivers
24 Conservation Board, the Department of Environmental Resources
25 will award grants to municipalities and/or local river support
26 groups for river conservation activities that implement the
27 objectives or recommendations in approved river conservation
28 plans for rivers listed on the Pennsylvania Rivers Conservation
29 Registry. River conservation activities may include, but shall
30 not be limited to, stream improvements, public access projects,

1 ~~flood protection projects, flood control projects,~~ FLOOD <—
2 MINIMIZATION ACTIVITIES, greenway/greenbelt development,
3 development and implementation of local ordinances, recreation
4 development projects, litter and debris cleanup projects, water
5 quality monitoring and the purchase of easements.

6 (b) Eligibility.--To be eligible for a river conservation
7 implementation grant, the river must be listed on the registry,
8 the grant application must include a resolution from the
9 affected municipality approving the river conservation plan and
10 it shall have been recommended for funding by the board.

11 (c) Priority.--Priority shall be given to the river
12 conservation implementation grant applications that:

13 (1) Document an urgent need to take action to conserve,
14 restore or enhance the river resources and values from
15 imminent threat,~~including, but not limited to, the threat of~~ <—
16 ~~flooding.~~

17 (2) Document a need to enhance the river resource for
18 its environmental, economic, industrial, aesthetic, scenic,
19 aquatic habitat or recreational values.

20 (3) Implement river-related environmental education
21 activities.

22 (4) Involve two or more municipalities to jointly
23 address a demonstrated need to conserve, restore or enhance a
24 river.

25 (5) Relate to a river conservation plan which takes a
26 watershed approach to the river resource.

27 (6) Address other criteria deemed appropriate by the
28 department.

29 Section 10. Technical assistance.

30 The Department of Environmental Resources shall establish a

1 technical assistance program to assist municipalities and river
2 support groups with conservation activities and to act as a
3 clearinghouse for river conservation information and shall
4 prepare and distribute newsletters, publications, booklets, fact
5 sheets and other materials regarding river conservation.

6 Section 11. Pennsylvania Scenic Rivers System.

7 Rivers designated by the General Assembly for inclusion in
8 the Pennsylvania Scenic Rivers System under the act of December
9 5, 1972 (P.L.1277, No.283), known as the Pennsylvania Scenic
10 Rivers Act, or designated in the Wild and Scenic Rivers Act
11 (Public Law 90-542, 16 U.S.C. § 1271 et seq.) are hereby
12 included on the Pennsylvania Rivers Conservation Registry and,
13 subject to the provisions of section 6(b), are immediately
14 eligible for river conservation implementation grants.

15 Section 12. Coordination with other State programs.

16 State agencies that administer grant programs that can be
17 utilized to carry out river conservation activities are
18 encouraged to give special consideration to the rivers listed on
19 the Pennsylvania Rivers Conservation Registry.

20 Section 13. Consistency reviews.

21 State agencies will coordinate with municipalities to ensure
22 that State actions are consistent to the extent feasible with
23 river conservation plans for rivers on the Pennsylvania Rivers
24 Conservation Registry. State agency consistency shall apply only
25 to municipalities that have approved a river conservation plan
26 through a resolution. For purposes of this section, approval of
27 a river conservation plan and inclusion of the river on the
28 registry shall neither expand nor restrict the existing legal
29 authority under which such State actions are taken.

30 Section 14. Funding limitations and cost sharing.

~~(a) General limitations. Except as provided in subsection
(b), funds approved by the Department of Environmental Resources
for planning or implementation grants under this act may not
exceed 50% of the approved project cost. The grant recipient's
50% share of the approved project cost may be provided through
direct cost or in kind services.~~

~~(b) Flood protection and control. Funds approved by the
department for planning or implementation grants to be used for
flood protection projects or flood control projects under this
act shall not exceed 80% of the approved project cost. A grant
recipient's 20% share of approved project cost may be provided
through direct cost or in kind services.~~

THE DEPARTMENT OF ENVIRONMENTAL RESOURCES SHALL MAKE 50/50
MATCHING GRANTS FOR APPROVED PROJECT COSTS TO MUNICIPALITIES AND
OTHER APPROPRIATE ORGANIZATIONS FOR THE PURPOSES OF PLANNING AND
IMPLEMENTING RIVER PROTECTION AND CONSERVATION ACTIVITIES. THE
GRANT RECIPIENT'S 50% SHARE OF THE APPROVED PROJECT COST MAY BE
PROVIDED THROUGH DIRECT OR IN-KIND SERVICES.

Section 15. Eligible use of funds.

Funds may be approved by the Department of Environmental
Resources for:

(1) Labor costs, including employer's share of
associated Social Security and payments to the Workers'
Compensation Fund and the Unemployment Compensation Fund for
grant recipient employees or persons hired by the
municipality or river support group who are directly
associated with the development of the river conservation
plan.

(2) Labor costs, including employer's share of
associated Social Security and payments to the Workers'

1 Compensation Fund and the Unemployment Compensation Fund for
2 grant recipient employees or persons hired by the
3 municipality or river support group employees to carry out
4 project activities directly associated with the
5 implementation grant project.

6 (3) Contracts for services to develop river conservation
7 plans.

8 (4) Contracts for services to carry out project
9 activities directly associated with the river conservation
10 implementation grant project.

11 (5) Costs of supplies and materials necessary to carry
12 out river conservation planning and implementation grant
13 projects.

14 Section 16. Ineligible use of funds.

15 Funds may not be approved by the Department of Environmental
16 Resources for:

17 (1) Acquisition of lands in fee simple.

18 (2) Purchase of tools and equipment.

19 (3) Computer equipment, including hardware and software.

20 (4) Benefits, except those specified in section 15, of
21 employees of the municipality or river support group
22 associated with or hired under these grants.

23 Section 17. Funding.

24 ~~This~~ THE GRANTS PROVIDED IN THIS act will be funded from the <—
25 ~~Keystone Recreation, Park and Conservation Fund, as established~~
26 ~~in~~ THE MONEYS APPROPRIATED TO THE DEPARTMENT FOR THE PURPOSES OF <—
27 SECTION 8(B)(2)(III) OF the act of July 2, 1993 (P.L.359,
28 No.50), known as the Keystone Recreation, Park and Conservation
29 Fund Act. THESE FUNDS SHALL NOT EXCEED 10% OF THE DEPARTMENT'S <—
30 PORTION OF THE REALTY TRANSFER TAX REVENUES, AS SPECIFIED IN THE

1 KEYSTONE RECREATION, PARK AND CONSERVATION FUND ACT.

2 Section 18. Severability.

3 The provisions of this act are severable. If any provisions
4 of this act or the application to any person or circumstances is
5 held invalid, the invalidity shall not affect other provisions
6 or applications of the act which can be given effect without the
7 invalid provisions or application, and to this end the
8 provisions of this act are declared to be severable.

9 Section 19. Repeals.

10 All acts and parts of acts are repealed insofar as they are
11 inconsistent with this act.

12 Section 20. Effective date.

13 This act shall take effect immediately.